

DECLARING THAT THE HOUSE OF REPRESENTATIVES DOES NOT
FAVOR THE SALE OF THE ALCOHOLIC BUTADIENE MANUFAC-
TURING FACILITY AT LOUISVILLE, KY., PLANCOR NO. 1207

JUNE 14, 1956.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HÉBERT, from the Committee on Armed Services, submitted the
following

REPORT

[To accompany H. Res. 524]

The Committee on Armed Services, to whom was referred the resolution (H. Res. 524) disapproving the sale of the alcohol butadiene manufacturing facility at Louisville, Ky., Plancor No. 1207, having considered the same, report favorably thereon without amendment and recommend that the resolution do pass.

On May 28, the Rubber Disposal Commission filed its report with the Congress concerning the recommended sale of the alcohol-butadiene plant at Louisville in accordance with Public Law 433 of the 84th Congress.

The facility recommended for sale has an assigned annual capacity of 60,000 short tons of alcohol-butadiene. It has a gross book value of \$31,585,000 and a net book value of \$6,629,000.

It is presently under lease to Publicker Industries, Inc. The present lease expires on April 4, 1958. Under the lease arrangement, Publicker pays the Government a rental of \$6 per ton on its throughput. Present annual production is approximately 24,000 short tons of alcohol-butadiene, resulting in an annual rental payment to the Government of \$144,000.

The 2 lines not in operation by the lessee are maintained in standby condition by the Government at a cost of approximately \$96,000 per year per line.

The Commission recommended the sale of the alcohol-butadiene plant to the Union Carbide & Carbon Corp. for the contract sales price of \$3,125,000 on the basis of immediate transfer of title, subject to the existing lease; or, in the laternative, \$3,500,000 with transfer of title and possession to occur at the expiration of the existing lease in April

of 1958. The only other bidder was the present lessee, Publicker Industries, Inc., whose final offer was \$2,400,000.

The original offer for the alcohol-butadiene plant, made by Publicker, on April 18, 1956, when the original bids were opened, amounted to \$74,000.

Carbide's first offer amounted to \$2 million.

The Attorney General has approved the forwarding of the report to the Congress and in so doing has stated—

on the basis of the information furnished to us by the Commission I do not view the proposed sale of the Louisville plant to Union Carbide & Carbon Corp. as being in violation of the antitrust laws.

However, the Attorney General has also stated as follows:

However, it is my view that the proposed sale would not best foster the development of a free competitive synthetic rubber industry, the standard set forth in section 3 (c) of the Rubber Producing Facilities Disposal Act of 1953, as amended. Accordingly, the proposed sale is not approved. My reasons for this conclusion are found in my attached statement of findings as required by section 9 (a) (4) of the act.

The Attorney General did go on to say, however—

* * * we believe that it is entirely appropriate to submit your report to the Congress for review.

Section 17 (4) of the Rubber Disposal Act requires—

that the prospective purchaser is acting in good faith, and actually intends to operate the facility or facilities for the purpose of manufacturing synthetic rubber or its component materials.

The Attorney General says that the sale to Carbide will not best foster the development of a free competitive synthetic rubber industry in the United States because Carbide in its contract of sale stated that it—

intends to operate the facility for the purpose of manufacturing butadiene when and to the extent such operation is economically feasible.

For the same reason the Attorney General also says—

the statements of intention by Publicker in its purchase proposal as to the continued utilization of this facility for the production of butadiene, while on their face more optimistic than those made by Union Carbide, may, from a legal point of view and considering the economics of the industry no more assure the long-range production of butadiene at this plant than do the representations made by Union Carbide. For this reason nothing contained in this statement should be considered as implying that Publicker's statement of intention when viewed in conjunction with a contract similar to one negotiated with Union Carbide would permit a finding that the competitive standards of the Disposal Act have been met.

Thus, Carbide's statement that it would produce butadiene when economically feasible, but only when economically feasible, will not permit the Attorney General to approve the sale because in his opinion this means that the purchaser does not intend to operate the facility for the purpose of manufacturing the component materials of synthetic rubber.

The Attorney General further stated that the sale of the plant to Union Carbide would probably not result in its use for production of butadiene "and may even tend to bring about the elimination of an existing butadiene producer."

The Attorney General has disapproved the sale on the grounds that the sale will not best foster the development of a free competitive synthetic rubber industry. Section 9 (a) (4) of the Rubber Disposal Act requires the Commission to submit to the Congress a report setting forth—

the statement from the Attorney General setting forth findings approving the proposed disposals in accordance with the standard set forth in section 3 (c).

The Attorney General has not approved the sale and has expressed the opinion that the sale would not best foster the development of a free competitive synthetic industry.

In addition, the Comptroller General of the United States in a letter dated June 12, 1956, to the chairman of the Committee on Banking and Currency, United States Senate, stated, among other things, in connection with the proposed disposal:

The foregoing provisions of Public Law 433 appear to us to require the Commission's report on a proposed lease of the Louisville plant to include a statement of approval by the Attorney General on the grounds that the lease will not tend to create or maintain a situation inconsistent with the anti-trust laws. Obviously, the leasing of the plant for a maximum term of 15 years would afford less opportunity for monopolistic practices than would its outright sale. Hence, if an affirmative statement of approval by the Attorney General is required in the case of a proposed lease, it appears only reasonable to construe the law as requiring similar affirmative approval of a proposed permanent disposition of the plant by sale.

For these reasons, it is our view that the law requires an affirmative approval by the Attorney General of the proposed sale of the Louisville plant; and that the report of the Commission, the sale having been disapproved by the Attorney General, does not satisfy section 27 (c) of the Rubber Producing Facilities Act of 1953, as amended. In answer to your specific inquiry, therefore, we believe that any title which Union Carbide & Carbon Corp. may receive to the Louisville plant, assuming of course that no resolution of disapproval is adopted by either body of Congress, would not be free from question.

Thus, it would appear that the Comptroller General has doubts as to the clear title that would be obtained by Union Carbide & Carbon Corp. if the sale were not disapproved by either House of the Congress.

In view of the opinion of the Comptroller General, as well as the opinion of the Attorney General that the sale would not best foster the development of a free competitive synthetic rubber industry, the Committee on Armed Services recommends that the sale be disapproved.

Under existing law if the sale is disapproved by either House, the Commission, or its successor, is authorized under section 4 (a) of Public Law 483, 84th Congress, to extend the existing lease or to enter into a new lease for the Louisville plant for a term of not less than 5 years, or not more than 15 years from the date of the existing lease. Any such lease extension must be submitted to the Congress for review. There is no authority under existing law to take new bids for the facility.

From the testimony of the Disposal Commission it appears highly unlikely that the Commission would be able to extend the lease or enter into a new lease which would give the Government a financial return commensurate with the Commission's estimate of fair value. Thus it is highly unlikely that a new lease will be entered into.

Furthermore, the Disposal Commission has indicated that if different criteria were established for the sale of this facility a higher return to the Government might be obtained. Because of the many factors surrounding the proposed sale as well as the obvious inability of alcohol-butadiene to compete with petroleum butadiene in a normal market, and since the production of petroleum butadiene will increase to a considerable extent in the next few years, it appears highly unlikely that a sale could be consummated where the purchaser could actually commit himself to the continuing manufacture of a component material of synthetic rubber in a normal competitive market.

Under the circumstances, the Committee on Armed Services will shortly introduce legislation extending the life of the Disposal Commission to July 1, 1957, with a view toward the introduction of further legislation based upon the recommendations of the Office of the Attorney General and the Rubber Disposal Commission which would modify the criteria under which the facility may be sold. It is quite likely that a reasonable modification of the existing criteria will result in the Government obtaining a higher price for the facility than has been offered to date.

The Committee on Armed Services recommends the adoption of the resolution which disapproves the proposed sale as submitted by the Rubber Disposal Commission. The action of disapproval by either House prevents the sale of the facility as recommended by the Rubber Disposal Commission.